

# MINUTES

## Executive Board



Senator Brock L. Greenfield, Chair  
Representative G. Mark Mickelson, Vice Chair  
Representative Spencer Hawley, Ranking Minority Member

**Second Meeting, 2018 Interim  
Monday, April 23, 2018**

**Room 413 – State Capitol  
Pierre, South Dakota**

The second meeting of the Executive Board for the 2018 Interim was called to order by **Senator Brock L. Greenfield** at 1:30 p.m. in room 413 of the State Capitol, Pierre, South Dakota. A quorum was determined with the following members answering the roll call: Senators Jim Bolin, R. Blake Curd (via phone), Kris Langer, Jeffrey Partridge, Jim Stalzer, and Billie H. Sutton (via phone); Representatives Hugh Bartels, Spencer Gosch (via phone), Steven Haugaard, Lee Qualm, and Tim Reed; Representative Spencer Hawley, Ranking Minority Member; Representative G. Mark Mickelson, Vice Chair; and Senator Brock L. Greenfield, Chair. Excused: Representative Mike Stevens.

Staff members present include Jason Hancock, Director; Sue Cichos, Deputy Director; Doug Decker, Code Counsel; Annie Mehlhaff, Chief Analyst for Fiscal; David Ortbahn, Chief Analyst for Research; Hilary Carruthers, Computer and Web Support Specialist; and Cindy Tryon, Senior Secretary.

*NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council office. This meeting was webcast live. The archived webcast is available at the LRC website at [sdlegislature.gov](http://sdlegislature.gov).*

### **Approval of Minutes**

**A MOTION WAS MADE BY REPRESENTATIVE QUALM, SECONDED BY SENATOR PARTRIDGE, TO APPROVE THE MINUTES OF THE MARCH 26, 2018, EXECUTIVE BOARD MEETING. Motion prevailed on a voice vote.**

### **Management Reports**

**Ms. Sue Cichos, Deputy Director**, reported the Legislative Update is back to being a monthly publication, after being distributed weekly during session. The Speaker and President Pro Tem are continuing with the same legislator travel policy as was used in 2017, and a copy of the policy and the electronic travel request form were included in the April Legislative Update. Ms. Rhonda Purkapile is busy working on the 2018 Session Laws, and Ms. Kelly Thompson is working on the Index. The Executive Board agreed last year that the Index would only be given to legislators in hard copy upon request. The complete Index will continue to be available online. The House and Senate Journals have been proofed and will be certified by the end of this week. LRC staff members have been assigned to monitor the various Executive and Judicial boards and commissions and reports on those meetings will be included in the Legislative Update. An ergonomics specialist will be meeting with each staff member to evaluate work spaces.

**Mr. Doug Decker, Code Counsel**, continues working with Ms. Purkapile on the Session Laws; the Code Counsel assigns the chapter numbers to the laws. The publishers of the code, West, have worked with the Code Counsel in completing the codification of the 2018 session laws. A total of 74 bills amended one or more of the same sections of law, and it is the job of the Code Counsel to give meaning to each of those conflicting codifications. Resolving those conflicts was more challenging this year, but has been completed. The process to be used for making these decisions is in statute.

**Mr. David Ortbahn, Chief Analyst for Research**, said the Research staff is busy getting ready for the interim. Mr. Wenzel Cummings is leading a work group that will review the current lawmaker program and try to find a way to streamline the system. The group hopes to have improvements in place by the 2020 legislative session.

**Ms. Annie Mehlhaff, Chief Analyst for Fiscal**, said the Joint Committee on Appropriations met on March 26 and approved fourteen Letters of Intent (LOI). The LOI can be found on the LRC website. The committee next meets on June 12 and may approve additional LOI at that time. The Fiscal staff continues working on the final session documents, as well as updating and posting monthly reports on the website.

**Mr. Jason Hancock, Director**, said the staff has completed two fiscal notes for 2020 proposed ballot initiatives. These fiscal notes are available on the website. The LRC is accepting applications for several positions. Two of those are the new positions for fiscal program evaluation. All LRC job listings can be found on the LRC website under [Careers](#), as well as on the Bureau of Human Resources website. The LRC is also accepting applications for a position on the Investment Council and for two positions on the Uniform Legislation Commission. Those three positions will be decided on by the Executive Board at the May meeting in Sioux Falls.

### **Interim Study Committees Scopes**

Mr. Hancock presented the suggested scope for each committee as was discussed at the Executive Committee meeting ([Document #1](#)). The two topics selected at the March Executive Board meeting are Study J: Extraordinary Cost Fund for Special Education, and Study K: Access to Mental Health Services.

**A MOTION WAS MADE BE REPRESENTATIVE MICKELSON, SECONDED BY SENATOR BOLIN, TO ADOPT THE EXECUTIVE COMMITTEE'S PROPOSED SCOPE FOR STUDY J, THE SPECIFIC ISSUE TO BE ADDRESSED IS THE INCREASING NEED FOR SPECIAL EDUCATION AND RELATED SERVICES IN THE SCHOOLS IN OUR STATE AND HOW TO ADEQUATELY FUND SPECIAL EDUCATION IN LIGHT OF THAT INCREASED NEED. ONE OF THE MAIN CONCERNS IS THAT THE STATE AID DOLLARS CURRENTLY BEING SET ASIDE FOR THE EXTRAORDINARY COST FUND FOR SPECIAL EDUCATION ARE NOT ADEQUATE TO MEET THE DEMANDS ON THAT FUND. WHAT IS CAUSING THE NEED FOR INCREASED FUNDING? WHAT ARE THE STATE AND FEDERAL REQUIREMENTS? HOW ARE CHILDREN BEING IDENTIFIED FOR THE LEVELS OF DISABILITY? SOME SCHOOL DISTRICTS RECEIVE LITTLE TO NO FUNDING FOR SPECIAL EDUCATION, DUE TO THE SMALL NUMBER OF SPECIAL EDUCATION STUDENTS IN THEIR SCHOOL DISTRICT, WHILE OTHER SCHOOL DISTRICTS MUST UTILIZE THE EXTRAORDINARY COST FUND TO TRY TO MEET THEIR DEMANDS FOR SPECIAL EDUCATION. WHAT CAN BE DONE TO ENSURE ADEQUATE FUNDING TO THE SCHOOLS THAT NEED IT?** The motion prevailed on a roll call vote with 14 voting AYE, 1 EXCUSED. Those voting AYE: Bolin, Curd, Langer, Partridge, Stalzer, Sutton, Bartels, Gosch, Haugaard, Qualm, Reed, Hawley, Mickelson, and Greenfield. EXCUSED: Stevens.

**A MOTION WAS MADE BY REPRESENTATIVE MICKELSON, SECONDED BY REPRESENTATIVE HAUGAARD, TO ADOPT THE EXECUTIVE COMMITTEE'S PROPOSED SCOPE FOR STUDY K, THE STUDY SHALL INCLUDE A REVIEW OF MENTAL HEALTH SERVICES AVAILABLE IN THE STATE: HOW PERSONS WITH MENTAL ILLNESS ARE TREATED AND CONTINUUM CARE; THE FACILITIES, LOCATIONS, RESOURCES, TREATMENT OPTIONS, AND SERVICES AVAILABLE FOR TREATMENT OF PERSONS WITH MENTAL ILLNESS; THE FINANCIAL COSTS TO THE STATE AND ITS POLITICAL SUBDIVISIONS.**

**Senator Jeffrey Partridge** said he would like to narrow the scope of Study K to include only "inpatient" mental health services. Narrowing the scope will allow for more readily available data from the Department of Social Services.

**A MOTION WAS MADE BY SENATOR PARTRIDGE, SECONDED BY REPRESENTATIVE BARTELS, TO AMEND THE MOTION TO ADD THE WORD "INPATIENT" BEFORE THE WORDS "MENTAL HEALTH" ON THE FIRST LINE OF THE PROPOSED SCOPE.** The motion failed on a roll call vote with 4 voting AYE, 10 voting NAY, and one EXCUSED.

**Those voting AYE: Bolin, Curd, Partridge, and Mickelson. Those voting NAY: Langer, Stalzer, Sutton, Bartels, Gosch, Haugaard, Qualm, Reed, Hawley, and Greenfield. EXCUSED: Stevens.**

**Senator Kris Langer** said there is a real disconnect between the time the first request for service is made and when the patient is actually admitted. **Representative Mark Mickelson** agreed, suggesting the focus be on inpatient care but also looking at the backlog of people needing to be admitted.

**Representative Steven Haugaard** said he appreciates the need to narrow the focus but outpatient care needs to be a part of the discussion. It is important to be cognizant of the influx of cases, and the discussion needs to include all services available, not just inpatient care.

**A MOTION WAS MADE BY REPRESENTATIVE REED, SECONDED BY SENATOR LANGER, TO AMEND THE MOTION BY ADDING "AND THE CAPACITY OF AVAILABLE SERVICES" AFTER "IN THE STATE" AND BEFORE THE COLON. The motion prevailed on a roll call vote with 14 voting AYE, 1 EXCUSED. Those voting AYE: Bolin, Curd, Langer, Partridge, Stalzer, Sutton, Bartels, Gosch, Haugaard, Qualm, Reed, Hawley, Mickelson, and Greenfield. EXCUSED: Stevens.**

**A MOTION WAS MADE BY REPRESENTATIVE MICKELSON, SECONDED BY REPRESENTATIVE HAUGAARD, TO ADOPT THE EXECUTIVE COMMITTEE'S PROPOSED SCOPE FOR STUDY K AS AMENDED. The motion prevailed on a roll call vote with 14 voting AYE, 1 EXCUSED. Those voting AYE: Bolin, Curd, Langer, Partridge, Stalzer, Sutton, Bartels, Gosch, Haugaard, Qualm, Reed, Hawley, Mickelson, and Greenfield. EXCUSED: Stevens.**

### **Interim Study Committees Membership Appointments**

Representative Mickelson said the Executive Committee discussed the list of legislators who prefer to serve on each of the committees.

**A MOTION WAS MADE BY REPRESENTATIVE MICKELSON, SECONDED BY REPRESENTATIVE HAWLEY, THAT THE FOLLOWING LEGISLATORS SERVE ON INTERIM STUDY J: SENATORS BOLIN, MAHER, MONROE, NESIBA, YOUNGBERG, AND REPRESENTATIVES AHLERS, BARTELS, DUVALL, (LANA) GREENFIELD, HOLMES, MAY, SCHOENFISH, AND SMITH. The motion prevailed on a roll call vote with 14 voting AYE, 1 EXCUSED. Those voting AYE: Bolin, Curd, Langer, Partridge, Stalzer, Sutton, Bartels, Gosch, Haugaard, Qualm, Reed, Hawley, Mickelson, and Greenfield. EXCUSED: Stevens.**

**A MOTION WAS MADE BY REPRESENTATIVE MICKELSON, SECONDED BY REPRESENTATIVE HAWLEY, THAT REPRESENTATIVE DUVALL SERVE AS CHAIR AND SENATOR BOLIN SERVE AS VICE CHAIR OF INTERIM STUDY J. The motion prevailed on a roll call vote with 14 voting AYE, 1 EXCUSED. Those voting AYE: Bolin, Curd, Langer, Partridge, Stalzer, Sutton, Bartels, Gosch, Haugaard, Qualm, Reed, Hawley, Mickelson, and Greenfield. EXCUSED: Stevens.**

**A MOTION WAS MADE BY REPRESENTATIVE MICKELSON, SECONDED BY SENATOR STALZER, THAT THE FOLLOWING LEGISLATORS SERVE ON INTERIM STUDY K: SENATORS EWING, KENNEDY, LANGER, SOHOLT, SOLANO, AND REPRESENTATIVES HAUGAARD, HOWARD, HUNHOFF, (KEVIN) JENSEN, JOHNS, REED, (HERMAN) OTTEN, AND WISMER.**

**A SUBSTITUTE MOTION WAS MADE BY SENATOR PARTRIDGE, SECONDED BY SENATOR BOLIN, THAT THE FOLLOWING LEGISLATORS SERVE ON INTERIM STUDY K: SENATORS EWING, KENNEDY, LANGER, SOHOLT, SOLANO, AND REPRESENTATIVES DIEDRICH, HAUGAARD, HUNHOFF, (KEVIN) JENSEN, JOHNS, REED, (HERMAN) OTTEN, AND WISMER. The substitute motion failed on a roll call vote with 6 voting AYE, 7 voting NAY, 2 EXCUSED. Those voting AYE: Bolin, Langer, Partridge, Sutton, Bartels, and Hawley. Those voting NAY: Stalzer, Gosch, Haugaard, Qualm, Reed, Mickelson, and Greenfield. Those EXCUSED: Curd and Stevens.**

**A SUBSTITUTE MOTION WAS MADE BY REPRESENTATIVE HAUGAARD, SECONDED BY REPRESENTATIVE QUALM, TO INCREASE MEMBERSHIP ON THIS COMMITTEE TO 15 WITH THE FOLLOWING LEGISLATORS TO SERVE ON INTERIM STUDY K: SENATORS EWING, KENNEDY, LANGER, SOHOLT, SOLANO, STALZER, AND REPRESENTATIVES DIEDRICH, HAUGAARD, HOWARD, HUNHOFF, (KEVIN) JENSEN, JOHNS, REED, (HERMAN) OTTEN, AND WISMER. The substitute motion prevailed on a roll call vote with 10 voting AYE, 3 voting NAY, and 2 EXCUSED. Those voting AYE: Langer, Stalzer, Bartels, Gosch, Haugaard, Qualm, Reed, Hawley, Mickelson, and Greenfield. Those voting NAY: Bolin, Partridge, and Sutton. Those EXCUSED: Curd and Stevens.**

**A MOTION WAS MADE BY REPRESENTATIVE MICKELSON, SECONDED BY REPRESENTATIVE HAWLEY, THAT SENATOR SOHOLT SERVE AS CHAIR AND REPRESENTATIVE HERMAN OTTEN SERVE AS VICE CHAIR OF INTERIM STUDY K. The motion prevailed on a roll call vote with 13 voting AYE, 2 EXCUSED. Those voting AYE: Bolin, Langer, Partridge, Stalzer, Sutton, Bartels, Gosch, Haugaard, Qualm, Reed, Hawley, Mickelson, and Greenfield. Those EXCUSED: Curd and Stevens.**

### **Issue Memos Topic Selection**

Mr. Hancock explained the issue memorandum process and presented the board with a list of eight topic suggestions, including updating two existing issue memos ([Document #2](#)).

**A MOTION WAS MADE BY SENATOR BOLIN, SECONDED BY REPRESENTATIVE REED, TO APPROVE OPTION 2, BRAND BOARD/BRAND FEES, AND OPTION 6, WIND ENERGY PERMITTING, FOR ISSUE MEMOS TO BE WRITTEN DURING THE 2018 INTERIM.**

**A SUBSTITUTE MOTION WAS MADE BY REPRESENTATIVE HAWLEY, SECONDED BY REPRESENTATIVE HAUGAARD TO APPROVE THE COMPLETE LIST OF 8 TOPICS FOR ISSUE MEMOS TO BE WRITTEN DURING THE 2018 INTERIM. The substitute motion prevailed on a roll call vote with 14 voting AYE, 1 EXCUSED. Those voting AYE: Bolin, Curd, Langer, Partridge, Stalzer, Sutton, Bartels, Gosch, Haugaard, Qualm, Reed, Hawley, Mickelson, and Greenfield. EXCUSED: Stevens.**

Representative Mickelson said he would like to have an issue memo written regarding offering the driver license examination in Spanish. **Senator Jim Bolin** said this was a topic discussed in committee during session and would be an appropriate addition to the list of issue memos.

**A MOTION WAS MADE BY REPRESENTATIVE MICKELSON, SECONDED BY SENATOR STALZER, THAT AN ISSUE MEMO BE WRITTEN REGARDING OFFERING DRIVER LICENSE EXAMINATIONS IN SPANISH. The motion prevailed on a roll call vote with 13 voting AYE, 2 EXCUSED. Those voting AYE: Curd, Langer, Partridge, Stalzer, Sutton, Bartels, Gosch, Haugaard, Qualm, Reed, Hawley, Mickelson, and Greenfield. Those EXCUSED: Bolin and Stevens.**

Representative Mickelson requested an issue memo regarding religious organizations that engage in commercial enterprises. Senator Greenfield said there is some confusion for churches that also operate daycare programs, preschool classes, and other types of businesses as to just what is and is not subject to sales and use tax.

**A MOTION WAS MADE BY REPRESENTATIVE MICKELSON, SECONDED BY SENATOR LANGER, THAT AN ISSUE MEMO BE WRITTEN REGARDING TAXATION AND REGULATION OF RELIGIOUS ORGANIZATIONS WHEN ENGAGING IN COMMERCIAL ENTERPRISES. The motion prevailed on a roll call vote with 9 voting AYE, 4 voting NAY, 2 EXCUSED. Those voting AYE: Curd, Langer, Stalzer, Bartels, Haugaard, Reed, Hawley, Mickelson, and Greenfield. Those voting NAY: Bolin, Partridge, Gosch, and Qualm. Those EXCUSED: Sutton and Stevens.**

### **Budget Subcommittee Report**

**Senator Partridge, Budget Subcommittee Chair**, reported the subcommittee appreciates the use of both titles, fiscal analyst and program evaluator, when advertising the two new program evaluator positions.

Senator Partridge explained the legislative contingency fund and that it was created to fund different ideas and programs for the betterment of state government. The fund has been used for Lean review studies for the Bureau of Information and Telecommunications and for the Department of Labor and Regulation. The opportunity to offer these Lean methodologies to improve efficiencies has been welcomed and beneficial. This year, the Budget Subcommittee recommends offering this Lean program opportunity to the Bureau of Administration and the Department of Corrections. Both of those agencies have agreed to engage in the process, and demonstrate that agreement by attending today's Executive Board meeting.

**A MOTION WAS MADE BY SENATOR PARTRIDGE, SECONDED BY REPRESENTATIVE BARTELS, THAT THE BOARD DIRECT LRC TO DEVELOP AN RFP, IN COOPERATION WITH THE BUREAU OF ADMINISTRATION AND DEPARTMENT OF CORRECTIONS, TO SOLICIT FOR LEAN CONSULTING SERVICES FOR THE TWO AGENCIES, NOT TO EXCEED \$250,000, AND THAT LRC REPORT BACK TO THE BOARD AT A SPECIAL TELECONFERENCE MEETING TO BE HELD DURING THE SUMMER, WITH A RECOMMENDED VENDOR OR VENDORS AND A PROPOSED CONTRACT OR CONTRACTS, FOR BOARD REVIEW AND APPROVAL, AND PROVIDE THE JOINT COMMITTEE ON APPROPRIATIONS WITH A PROGRESS REPORT AT ITS FIRST MEETING AFTER COMPLETION OF THESE TASKS. The motion prevailed on a roll call vote with 14 voting AYE, 1 EXCUSED. Those voting AYE: Bolin, Curd, Langer, Partridge, Stalzer, Sutton, Bartels, Gosch, Haugaard, Qualm, Reed, Hawley, Mickelson, and Greenfield. EXCUSED: Stevens.**

**Mr. Scott Bollinger, Commissioner, Bureau of Administration**, said the Lean process is a good evaluation process for the Bureau of Administration and plans to use the review process to look at procurement and the state engineering program.

**Mr. Denny Kaemingk, Secretary, Department of Corrections**, said his agency is looking at several possibilities to undergo the Lean review and is hoping the consultant will assist in making the final decision.

### **Program Evaluation Process Discussion**

Mr. Hancock presented the program/performance evaluation overview ([Document #3](#)). This type of evaluation is an examination of a program or an activity of a state agency. Once the topics for evaluation have been selected, LRC staff will develop an evaluation plan scope in conjunction with the agency. A work plan will be developed and then the scope and work plan will be presented to the Executive Board for approval. Once the evaluation has been prepared, it will go to the Governor and the head of the agency for their comments. Changes may be made to the report as a result of this feedback, in which case the Governor and the head of the agency will be given the opportunity to provide their comments on the revised report. The final report will then be presented to the Executive Board for approval.

### **Program Evaluation Topic Selection**

Senator Greenfield said the Joint Committee on Appropriations submitted six proposed program evaluation topics as requested by the Executive Board ([Document #4](#)). In addition to those suggestions, Representative Herman Otten submitted a proposal that the County Site Analysis Program be considered for evaluation ([Document #5](#)).

**A MOTION WAS MADE BY REPRESENTATIVE HAWLEY, SECONDED BY REPRESENTATIVE MICKELSON, TO SELECT THE DRUG/DUI COURTS PROGRAM FOR EVALUATION DURING THE 2018 INTERIM. The motion prevailed on a**

roll call vote with 13 voting AYE, 2 EXCUSED. Those voting AYE: Bolin, Langer, Partridge, Stalzer, Sutton, Bartels, Gosch, Haugaard, Qualm, Reed, Hawley, Mickelson, and Greenfield. Those EXCUSED: Curd and Stevens.

**A MOTION WAS MADE BY REPRESENTATIVE REED, SECONDED BY REPRESENTATIVE BARTELS, TO SELECT THE DAKOTA AT HOME PROGRAM FOR EVALUATION DURING THE 2018 INTERIM.** The motion prevailed on a roll call vote with 9 voting AYE, 5 voting NAY, and 1 EXCUSED. Those voting AYE: Bolin, Curd, Langer, Partridge, Stalzer, Sutton, Bartels, Reed, and Hawley. Those voting NAY: Gosch, Haugaard, Qualm, Mickelson, and Greenfield. EXCUSED: Stevens.

### **Initiated Measures and Constitutional Hearings Discussion**

**Mr. Steve Willard, SD Broadcasters Association**, distributed a proposal that a legislative committee conduct ballot issue hearings and the broadcasters would rebroadcast and distribute the content of those hearings prior to the election ([Document #6](#)). The Broadcasters Association would also organize ballot initiative town hall meetings and forums in conjunction with local partners.

Representative Langer asked who the Broadcasters envision paying for this. Mr. Willard said they do not see any costs to the Legislature. Representative Langer pointed out that at the very least there would be cost for legislator travel.

Representative Mickelson said this is a worthy objective but the Broadcasters would have to coordinate and organize it, not the Legislature. Legislators could be invited to participate, but should not be a part of making decisions regarding these hearings.

**Representative Spencer Hawley** said the legislative process should not be used for the initiated measure process.

**Representative Tim Reed** said the 2017 Initiated Measure Interim Study Committee discussed these types of hearings and this proposal is headed down the right path. The study committee felt there would be value in having legislators ask questions about the measures but the process may seem skewed if the hearing was run by a panel of legislators.

Representative Haugaard said he would like to revisit this proposal at the next Executive Board meeting.

### **Adjourn**

**A MOTION WAS MADE BY REPRESENTATIVE QUALM, SECONDED BY REPRESENTATIVE MICKELSON, THAT THE EXECUTIVE BOARD BE ADJOURNED.** The motion prevailed unanimously on a voice vote.

The Board adjourned at 4:50 p.m.